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Quirky IP Licensing, LLC

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

QUIRKY IP LICENSING, LLC

Plaintiff,

v.

GLOBE ELECTRIC COMPANY, INC.

Defendant.

Civil Case No. \_\_\_\_\_

Civil Action

**COMPLAINT,  
DESIGNATION OF TRIAL COUNSEL  
AND JURY DEMAND**

*Document Electronically Filed*

Plaintiff Quirky IP Licensing, LLC (herein after “Quirky”) by way of Complaint for Damages against Defendant Globe Electric Company, Inc. (“Globe Electric”), allege as follows:

**NATURE OF THE ACTION**

1. This is an action by Quirky for infringement of United States Patent Nos. 8,262,399, 8,529,289, 9,755,388, D667,795, D677,630, and D746,234 (collectively, the “Quirky Patents”). Copies of the Quirky Patents are attached hereto as Exhibits A-F, respectively.
2. Quirky seeks to collect damages from Defendant as a result of the infringement.
3. Specifically, Plaintiff seeks judgment against Defendant that Defendant infringed the Quirky Patents.

4. In addition, Plaintiff seeks damages caused by each claim, including but not limited to permanent injunction, compensatory damages, enhanced damages, costs, expenses, reasonable attorneys' fees, pre-judgment interest, and post-judgment interest.

### **THE PARTIES**

5. Quirky is a Delaware corporation with its principal place of business of business at 601 West 28<sup>th</sup> Street, Suite 1762, New York, New York 10001.

6. On information and belief, Globe Electric is a Canadian corporation located at 150 Avenue Oneida, Montreal, QC H9R 1A8, Canada.

### **JURISDICTION AND VENUE**

7. This action arises under the Patent Laws of the United States, Title 35, United States Code §§101, et seq.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a) and 2201(a).

9. This Court has personal jurisdiction over Globe Electric because Globe Electric regularly transacts business in this District, *inter alia*, selling and offering for sale one or more products that infringe the Quirky Patents.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400.

### **BACKGROUND**

11. Quirky is an invention development company headquartered in New York City. Quirky brings products to the marketplace through interaction between an online global community and Quirky's product designs and engineering staff. Quirky's slogan is "We Make Invention Accessible."

12. Quirky has developed over 400 products since launching in June 2009. Quirky was recognized as one of Fast Company's "Most Innovative Companies of 2014" and in 2013, Inc. Magazine called Quirky "the world's most creative manufacturer". Quirky has grown to over 1.3 million community members.

13. On September 11, 2012, U.S. Patent No. 8,262,399 (the '399 Patent) entitled "Reconfigurable Plug Strip" was duly and legally issued by the U.S. Patent Office. All rights, title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

14. On September 10, 2013, U.S. Patent No. 8,529,289 (the '289 Patent) entitled "Reconfigurable Plug Strip" was duly and legally issued by the U.S. Patent Office. All rights, title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

15. On September 5, 2017, U.S. Patent No. 9,755,388 (the '388 Patent) entitled "Reconfigurable Plug Strip" was duly and legally issued by the U.S. Patent Office. All rights, title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

16. On September 25, 2012, U.S. Patent No. D667,795 (the '795 Patent) entitled "Reconfigurable Plug Strip" was duly and legally issued by the U.S. Patent Office. All rights, title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

17. On March 12, 2013, U.S. Patent No. D677,630 (the '630 Patent) entitled "Reconfigurable Plug Strip" was duly and legally issued by the U.S. Patent Office. All rights,

title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

18. On December 29, 2015, U.S. Patent No. D746,234 (the ‘234 Patent) entitled “Reconfigurable Plug Strip” was duly and legally issued by the U.S. Patent Office. All rights, title and interest in the patent was assigned by the inventors to Quirky Incorporated, and which was subsequently assigned to Plaintiff, Quirky IP Licensing LLC.

19. The Quirky Patents cover an invention for an improved reconfigurable power strip that can bend into circular, semi-circular, and zigzag shapes, allowing it to bend around furniture and tight spaces, and allowing all six outlets to be adjusted and utilized simultaneously.

20. The initial design for this invention was presented to Quirky by Mr. Jacob Zien, who conceived of it while he was a student at the Rhode Island School of Design. Mr. Zien subsequently became a Quirky community member and submitted his invention to Quirky.

21. Mr. Zien’s initial idea was selected by Quirky, and was refined based on input from Quirky’s own designers and engineers. The result is an improved reconfigurable power strip that can bend into circular, semi-circular, and zigzag shapes, allowing it to bend around furniture and tight spaces, and allowing all six outlets to be adjusted and utilized simultaneously.

22. A non-provisional patent application disclosing this improved power strip was filed on April 27, 2011, and assigned to Serial No. 13/095,167 (the “Parent Application”). The Parent Application issued as the ‘399 Patent. The remaining Quirky Patents claim priority to the Parent Application.

23. Quirky began offering for sale its reconfigurable power strip which is marketed and sold under the Pivot Power® brand in May 2011. A picture of the Pivot Power product is below:



24. On information and belief, prior to the release of the Pivot Power product, Globe Electric did not market a reconfigurable power strip.

25. On information and belief, after Quirky released its Pivot Power product, Globe Electric used Pivot Power as the basis for designing its own competing product.

26. On information and belief, Globe Electric's derivative product was released as early as 2013 under the Flexigon brand. The "Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501 is pictured below:



27. On May 30, 2018, Quirky sent a cease and demand notice (the “Notice”) to Globe Electric. A true and correct copy of the Notice is attached hereto as Exhibit F. On July 6, 2018, Globe Electric replied to Quirky’s Notice, stating “our analysis concludes that there is no infringement of any of your IP rights”. Globe Electric provided no basis to Quirky for their unfounded and cursory conclusion.

#### **COUNT I – Infringement of the ‘399 Patent**

28. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

29. Globe Electric has infringed and continues to infringe one or more claims of the ‘399 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip” model number 7817501.

30. Globe Electric received actual notice of the ‘399 Patent through the receipt of the Notice.

31. On information and belief, any continuing infringement of the '399 Patent by Globe Electric despite knowledge of the '399 Patent is and continues to be willful and deliberate.

32. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**COUNT II – Infringement of the '289 Patent**

33. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

34. Globe Electric has infringed and continues to infringe one or more claims of the '289 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501.

35. Globe Electric received actual notice of the '289 Patent through the receipt of the Notice.

36. On information and belief, any continuing infringement of the '289 Patent by Globe Electric despite knowledge of the '289 Patent is and continues to be willful and deliberate.

37. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**COUNT III – Infringement of the '388 Patent**

38. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

39. Globe Electric has infringed and continues to infringe one or more claims of the '388 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501.

40. Globe Electric received actual notice of the '388 Patent through the receipt of the Notice.

41. On information and belief, any continuing infringement of the '388 Patent by Globe Electric despite knowledge of the '388 Patent is and continues to be willful and deliberate.

42. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**COUNT IV – Infringement of the '795 Patent**

43. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

44. Globe Electric has infringed and continues to infringe one or more claims of the '795 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501.

45. Globe Electric received actual notice of the '795 Patent through the receipt of the Notice.

46. On information and belief, any continuing infringement of the '795 Patent by Globe Electric despite knowledge of the '795 Patent is and continues to be willful and deliberate.



47. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**COUNT V – Infringement of the '630 Patent**

48. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

49. Globe Electric has infringed and continues to infringe one or more claims of the '630 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501.

50. Globe Electric received actual notice of the '630 Patent through the receipt of the Notice.

51. On information and belief, any continuing infringement of the '630 Patent by Globe Electric despite knowledge of the '630 Patent is and continues to be willful and deliberate.

52. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**COUNT VI – Infringement of the '234 Patent**

53. Quirky repeats and re-alleges Paragraphs 1-27 hereof as if fully set forth herein.

54. Globe Electric has infringed and continues to infringe one or more claims of the '234 Patent by making using, and/or marketing products, including, but not limited to, its Flexigon 6 ft. 2 USB Port 4-Outlet Surge Protector Power Strip" model number 7817501.

55. Globe Electric received actual notice of the '234 Patent through the receipt of the Notice.

56. On information and belief, any continuing infringement of the '234 Patent by Globe Electric despite knowledge of the '234 Patent is and continues to be willful and deliberate.

57. As a result of Globe Electric's infringement, Quirky has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Quirky prays for judgment and relief against Globe Electric as follows:

A. Declaring that Globe Electric has infringed one or more claims of the each of the Quirky Patents;

B. Directing that Globe Electric account for and pay to Quirky all damages arising out of Globe Electric's infringement of the Quirky Patents, pursuant to 35 U.S.C. § 284, in an amount to be determined but not less than a reasonable royalty;

C. Declaring that Globe Electric's infringement of the Quirky Patents has been, and continues to be, willful and deliberate;

D. Awarding Quirky enhanced damages for Globe Electric's willful infringement;

E. Directing Globe Electric to pay Quirky's costs, expenses and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285;

F. Awarding Quirky pre-judgment and post-judgment interest on the damages awarded to it by reason of Globe Electric's infringement;

G. Issuing a permanent injunction enjoining Globe Electric and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, distributors, resellers, retailers and all other parties acting in active concert therewith from infringement of the Quirky Patents, or such other equitable relief the Court determines is warranted; and

H. Granting Quirky such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Quirky hereby demands trial by jury on all issues in its Complaint.

**DESIGNATION OF TRIAL COUNSEL**

These Plaintiff hereby designates Harris A. Wolin, Esq. as trial counsel.

**MYERS WOLIN, LLC**

Dated: October 4, 2018

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